

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
THIRD REGION**

COCA COLA ENTERPRISES, INC.
Employer

and

Case 3-UC-532

**LOCAL 669, INTERNATIONAL
BROTHERHOOD OF TEAMSTERS**
Petitioner

DECISION AND CLARIFICATION OF BARGAINING UNIT

Upon a petition duly filed under Section 9(b) of the National Labor Relations Act, as amended, careful investigation and consideration took place.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned Acting Regional Director.¹ Upon the entire record in this proceeding, I find that Coca Cola Enterprises, Inc. is a Delaware corporation with facilities located throughout the United States, including a facility in Albany, New York, where it distributes non-alcoholic beverages. In the past 12 months, a representative period, the Employer has purchased and received at its Albany, New York facility goods, materials and supplies valued in excess of \$50,000 directly from points located outside the State of New York.

The Petitioner currently represents the employees in the appropriate collective bargaining unit set forth below:

¹ Under the provisions of Sections 102.63(b) and 102.67 of the Board's Rules and Regulations, Series 8, as amended, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1717 Pennsylvania Avenue, N.W., Washington, D.C. 20570. This request must be received in Washington, D.C. by February 25, 2009. Immediately upon the filing of a request for review, copies thereof shall be served on the Regional Director and the other parties.

All employees, including production transportation workers, service fleet mechanics, distribution, warehouse and full service employees employed by the Employer at its Albany, New York facility, excluding managerial employees, sales, office employees and supervisors as defined in the National Labor Relations Act, as amended.

The Petitioner seeks to clarify the bargaining unit set forth above to include employees at the Employer's Chestertown, New York, facility, which commenced operations on or about January 19, 2009. The Employer's position is that it is appropriate to accrete the employees assigned to the newly opened Chestertown facility to the existing bargaining unit and that, therefore, the Petitioner's request for clarification of the unit should be granted.

The Employer's Albany facility, which is located about 75 miles from Chestertown, is staffed by approximately 100 bargaining unit employees and includes a warehouse and distribution facility. Until the end of 2008, the Employer also operated a smaller facility in Tupper Lake, New York to service the Adirondack area. Two employees occupying the driver and merchandiser classifications worked out of the Tupper Lake facility, and were not represented by any labor organization. One of these two employees transferred to the new Chestertown location and a group of about five Albany based bargaining unit employees will also transfer to the new location.

The Chestertown facility does not have a warehouse or distribution building and the product is picked, sorted and loaded by bargaining unit employees at the Albany facility. Product is shipped to Chestertown from the Albany warehouse in trucks driven by Albany-based shuttle drivers. The Albany shuttle drivers park the loaded trucks at the Chestertown transfer point and return, carrying empty trailers. The delivery drivers assigned to Chestertown use the loaded trucks to make their deliveries. The method of operation, the equipment and performance standards are the same for employees at both locations.

There is a statutory supervisor on site at Chestertown, but given the small number of employees present at that site, it appears that he does not possess significant autonomy. Rather, . Chestertown is functionally integrated with Albany and Albany exercises centralized control of daily operations. The Albany Distribution Manager will supervise the Chestertown facility supervisor.

The labor relations policies for both facilities are established and administered by managers based in Albany. All personnel and payroll records for the employees assigned to Chestertown are maintained in Albany. Chestertown and Albany employees are deployed interchangeably within the same geographic area, based on business needs. As a result, a particular route might be serviced one day by an Albany employee and by a Chestertown employee the following day. The method of operations, equipment, performance expectations, general working conditions, and pay rates are the same for the Chestertown and Albany employees. In summary, the Albany managers and supervisors retain a very high degree of operational control over the Chestertown facility.

It is anticipated that both Chestertown and Albany employees will be able to bid on routes within the geographic area under the direction of the Albany Distribution Manager. The Chestertown facility will be staffed, at least in part, by current bargaining unit employees, under terms that have been or will be negotiated by the parties. There is a very high degree of functional integration between the two locations, and once the Chestertown facility is fully operational, a significant portion of the geographic area serviced from there will include territory previously serviced by employees based in Albany. In addition, the employees at the two locations perform identical functions and possess identical skills, and are covered by the same personnel and labor relations policies. Finally, as noted above, the Chestertown and Albany

employees will be used interchangeably throughout the same geographic area, depending on the Albany managers' assessments of business needs and manpower availability.

Under the circumstances set forth above, it is appropriate to accrete the relatively small number of employees assigned to the newly-opened Chestertown facility to the Albany bargaining unit, which is comprised of almost 20 times as many employees. The two facilities are located about 75 miles apart. While this distance could be viewed as a factor that mitigates against accretion, the distance between the two facilities in this case is outweighed by the factors discussed above, See Coca-Cola Bottling of Buffalo, Inc. 325 NLRB 312 (1998). In fact, given the nature of the Employer's business and the high degree of integration between the two facilities, the actual distance between the two facilities is less critical to a determination on the appropriateness of accreting the group in question to the existing bargaining unit than it would be in other settings. See WeCare Transportation, LLC, 353 NLRB No. 9 (September 17, 2008).

Inasmuch as the employees based in Chestertown share an overwhelming community of interest with the employees in the existing bargaining unit, and have an insufficient separate identity to require that the group be treated as a separate bargaining unit, I find, in accordance with both parties' positions, that it is appropriate to accrete the Chestertown employees to the existing bargaining unit. Accordingly, the unit is hereby clarified to reflect that Chestertown employees are included in the appropriate collective-bargaining unit.

ORDER

IT IS HEREBY ORDERED that the bargaining unit represented by Local 669, International Brotherhood of teamsters is hereby clarified to include the employees at the Employer's Chestertown, New York facility.

The clarified unit is:

All employees, including production transportation workers, service, fleet mechanics, distribution, warehouse and full service employees employed by the Employer at its Albany and Chestertown, New York facilities excluding managerial employees, sales, office employees and supervisors as defined in the National Labor Relations Act, as amended.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, DC 20570-0001. This request must be received by the Board in Washington, DC by 5 p.m. EDT on **February 25, 2009**. The request may be filed electronically through the Agency's web site, www.nlr.gov,² but may not be filed by facsimile.

DATED at Buffalo, New York this 11th day of February, 2009.

RHONDA P. LEY

Acting Regional Director
National Labor Relations Board Region 3
Niagara Center Building
130 South Elmwood Avenue, Suite 630
Buffalo, New York 14202

² To file the request for review electronically, go to www.nlr.gov and select the **E-Gov** tab. Then click on the **E-Filing** link on the menu. When the E-File page opens, go to the heading **Board/Office of the Executive Secretary** and click on the "File Documents" button under that heading. A page then appears describing the E-Filing terms. At the bottom of this page, check the box next to the statement indicating that the user has read and accepts the E-Filing terms and click the "Accept" button. Then complete the filing form with information such as the case name and number, attach the document containing the request for review, and click the Submit Form button. Guidance for E-filing is contained in the attachment supplied with the Regional Office's initial correspondence on this matter and is also located under "E-Gov" on the Board's web site, www.nlr.gov.